

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	DOCKET UE-161204
)	
Complainant,)	
)	
v.)	PETITION TO INTERVENE OF
)	YAKAMA POWER
PACIFIC POWER & LIGHT COMPANY,)	
)	
Respondent.)	
_____)	

1. Pursuant to WAC § 480-07-355, Yakama Power, a nonprofit utility incorporated under the laws of the Yakama Nation as a public body (“Yakama Power”), hereby petitions the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) for leave to intervene in the above-referenced docket as an intervenor with full party status, as described in WAC § 480-07-340. The business address of Yakama Power is:

Ray Wiseman, General Manager
Yakama Power
P.O. Box 1279
61220 Highway 97
Toppenish, WA 98948

Yakama Power will be represented in this proceeding by its general manager and attorney. All documents relating to this proceeding should be served on Yakama Power’s representatives, at the following addresses:

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2. The administrative rules at issue are WAC §§ 480-07-340, -355.
3. Yakama Power is a nonprofit electric utility, incorporated under the laws of the Yakama Nation and wholly owned by the Yakama Nation, a federally recognized Indian tribe. Yakama Power currently provides utility products and services to customers located within the boundaries of the Yakama Indian Reservation (“Reservation”), primarily in Yakima County, but the Reservation includes portions of Lewis and Klickitat counties in Washington. Yakama Power’s service area is generally intermingled on the Reservation with that of Pacific Power & Light Company (“Pacific”) and does not have an exclusive service territory agreement with Pacific. Pacific has sold a number of utility assets located within the Reservation boundaries to Yakama Power, and Yakama Power frequently receives requests, initiated by the consumers, to provide electric energy to them instead of Pacific. Over the past several years, several consumers have switched from service by Pacific to service by Yakama Power, and in doing so been subject to claims by Pacific that such consumer is subject to charges under Pacific’s tariffs for costs Pacific asserts for abandoned or removed facilities.

Yakama Power has a substantial interest in Pacific Power’s proposed revisions to Tariff WN U-75, including portions of Rules 1, 4, and 6, as well as Schedule 300, more specifically, in Pacific’s proposed significant modifications to procedures and fees associated with permanent customer disconnection, facility removal and stranded cost recovery. As one of Pacific’s direct competitors in the Yakima valley, Yakama Power will be substantially and directly affected by these proposed modifications. Furthermore, Yakama Power has a substantial interest in the subject matter of this proceeding because Pacific is requesting a revised tariff partially on alleged actions taken by Columbia REA, which raise similar legal and factual issues for Yakama Power’s interactions with Pacific, but in the unique context of the complex nature of land ownership within Indian reservation boundaries. Thus, allowing Yakama Power to directly address Pacific’s claims about such stranded cost recovery and removal costs through intervention would be “in the interests of justice,” in accordance with the discretionary standard applied by the Commission under the Administrative Procedure Act.¹ The Commission also recently confirmed allowing intervention by an unregulated entity on a “substantial interest” basis, in similar circumstances, when a utility tariff filing had “placed” the market practices of an unregulated entity “at issue in th[e] proceeding.”² Because Yakama Power has engaged in similar market actions on the Reservation, Yakama Power requests leave to intervene in this Docket to represent its interests which are directly affected by Pacific’s proposed tariff revisions.

¹ Cost Mgmt. Serv., Inc., v. Cascade Natural Gas Corp., Dockets UG-061256 *et al.*, Order 06 at ¶ 19 (Oct. 12, 2007) (quoting RCW § 34.05.443(1)).

² WUTC v. Puget Sound Energy (“PSE”), Docket UE-161123, Order 04 at ¶ 22 (Nov. 22, 2016) (quoting WUTC v. PSE, Dockets UE-151871 and UG-151872, Order 02 at ¶ 11 (Jan. 7, 2016)).

4. Yakama Power's legal counsel, General Manager and employees have extensive experience in utility rate development and Pacific's routine practices applying its tariffs, rules, and rate schedules to its customers who attempt to receive service from another utility, especially in the unique context of the complex pattern of land ownership on Indian reservations. Yakama Power's intervention in this proceeding will assist the Commission in resolving the issues and will not unreasonably broaden the issues, burden the record, or delay this proceeding.

5. As described above, Yakama Power has a direct and substantial interest in this proceeding that will not be adequately represented by any other party, and may be affected by any Commission determination connected with this proceeding. Yakama Power will help the Commission determine the effects of the proposed tariff revisions on Pacific's customers. Thus it is in the public interest to allow Yakama Power to intervene in this proceeding.

6. WHEREFORE, Yakama Power respectfully petitions the Commission for leave to intervene in this proceeding.

Dated this 16th day of December, 2016.

Respectfully submitted,

WILLIAMS MOSES LP



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Of Attorneys for Yakama Power